

"Sarawak's natives must stand up for their rights and fight for them."

Interview with Kuching lawyer, Baru Bian, the new Sarawak leader of the People's Justice Party (PKR), on Sarawak's failed rural development and on Chief Minister Taib Mahmud and his reform plans for a new government in the post-Taib era.



BRUNO MANSER FUND (BMF): Baru Bian, almost 50 years after independence, Sarawak's rural infrastructure in many ways remains underdeveloped, and a considerable part of the rural population is leading a life close to or even below the poverty line. What has gone wrong with Sarawak's rural development?

BARU BIAN: I think there are several reasons for this. Firstly, I believe that the federal government has neglected Sabah and Sarawak. After 47 years as part of Malaysia, Sarawak has a poverty rate comparable with some of the poorest countries in Africa. Sarawak and Sabah are the richest in natural resources within Malaysia, yet we rank among the four poorest states. It is obvious that the federal government has concentrated the country's development on West Malaysia and has neglected Sarawak and Sabah, in spite of the fact that we are a state that produces petroleum and liquid natural gas and are rich in timber and land. We only receive five percent of the royalties from petroleum, and hence a huge share of our wealth is siphoned off to West Malaysia. This had, in fact, been one of the fears of the native leaders when they were asked to become part of Malaysia in 1963.

BMF: Does this mean the native leaders' worst fears have come true?

BARU BIAN: Yes, that has now become reality. We are living under another form of colonialism, whereby the colonial power is in West Malaysia. This neglect by Kuala Lumpur constitutes the first point. The second point is that Kuala Lumpur considers Sabah and Sarawak to be separate states and not to be part of Malaysia. Thirdly, our local leaders are not bothered because they are under the dictate of Kuala Lumpur.

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BMF: In the 1980s, industrial-scale logging was brought into the interior in the name of development. Today, Sarawak's formerly rich timber resources are almost depleted. The native communities have had little benefit from logging. Where did the profits end up?

BARU BIAN: It is public knowledge that most of the profits went to timber tycoons who are involved in the timber business and to certain individuals – the political leaders who issued the licences. The revenues of our timber resources are all being siphoned off overseas and are not being brought back to Sarawak.

BMF: Some political observers are suggesting that Taib Mahmud has made himself into one of the richest men of South-East Asia during his 28 years as Chief Minister of Sarawak. Do you think this is plausible?

BARU BIAN: Yes, I think it is public knowledge that he is extremely rich. I remember an article written by Doctor Andrew Areia from UNIMAS in the Aliran magazine in 2008, and he talks about billions of dollars.

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BMF: Can you tell us what Taib's and his family's main routes to enrichment have been?

BARU BIAN: Basically, they are involved in various companies which are awarded contracts by the government. That is one route. And another route is through the issue of provisional leases and timber licences to companies with which they have links, and these leases and licences are then sold off to investors for huge sums.

BMF: Where has the money gone? We have heard rumours that Taib transferred large sums overseas and that he owns real estate in the United Kingdom, Canada and other countries.

BARU BIAN: I have nothing to add to that because I have no knowledge about it, but it appears that that is where the money went. A few months ago, there was a report that one of the daughters owns one of the most expensive homes in Canada.

BMF: Will there be calls for restitution in the post-Taib area? In Switzerland, we can look back to the case of former Philippines dictator, Ferdinand Marcos, whose assets in Swiss banks were restituted to the Philippine government.

BARU BIAN: Personally, I think we must look into a restitution process in the post-Taib era. If his wealth is found to have been obtained unlawfully and illegally, then the law must take its course, and I think this will require a very strong resolve on the part of those who take over. It is a matter of political will. The Philippines did it, Indonesia did it, and I see no reason why we shouldn't do it. The ordinary people have been suffering and have been short-changed by Taib Mahmud.

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BMF: Even though Taib Mahmud's grip on power in the state remains firm, his days as Chief Minister appear to be numbered. What will his legacy to the state of Sarawak be? How will history judge Taib Mahmud's years in power?

BARU BIAN: I am trying to look at it from an ordinary Sarawakian's point of view. To a certain extent, there are a number of development projects that have been carried out. The latest one is the huge state assembly building that cost us millions. The question here is really why did we need a new building if the old one is still OK, and this is the people's money? From the Dayak perspective, in particular, we think that we have been politically divided and this was intentionally engineered by Taib Mahmud in order to weaken us. Today, we have five parties which the Dayaks are divided over. That is how we perceive him at the end of the day. Thirdly, he acquired immense wealth and riches at the expense of the ordinary people.

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BMF: Moving on to another subject, the Bakun dam, which is close to completion. What, for you personally, is the lesson learned from the Bakun experience?

BARU BIAN: Our people, the natives, should not be easily hoodwinked by the government when the government says that a project is good for them. They must examine it properly, obtaining an expert opinion on whether it is really good for them. If the project is viable and good for the people, we have no objection. At the same time, the people's interests and future must be better taken care of by the government. So they must not be in a worse position than before. Although the project was carried out in the name of development, a lot of the natives in the region are now in a worse position than previously.

BMF: Transparency International has labelled the Bakun dam a 'monument of corruption'. Would you agree with such a statement?

BARU BIAN: From what we know, I definitely agree with it. It is very obvious that the cost of the project cannot be justified by comparison to the benefits we might get from it.

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BMF: Last year, the state government's plan for another twelve new dams in Sarawak became public. What is the rationale behind these dam plans?

BARU BIAN: The government says we need the power and talks of selling the power to Brunei. But I doubt this. I am quite suspicious and don't think we need so many dams in Sarawak. I really question the value of these projects and whether it is possible to send the power that is produced to West Malaysia, as we have been reading about. What I am afraid of is that they may use this as an occasion to invoke a provision of the land code and extinguish native rights in the courts for public purposes. Once that is done, the native peoples will not be able to challenge the legality of the extinguishment of their rights. The only remaining issue will then be how much compensation they are to receive. So, once the area is gazetted, the contractor or the company in charge of the project would start clearing the land and felling the timber. The contractor could get a few millions for the timber alone. That is what happened in the Bakun area.

BMF: So, basically you are saying the dam projects are a pretext for taking away the native lands.

BARU BIAN: Yes, that is the bottom line, because there is no need for these dams. Even years later, they can forget about the dam and use the land for other purposes, without the natives having any opportunity to object.

"The state government's plan for twelve new dams is a pretext for extinguishing native land rights in the watersheds of our main rivers, in the name of a public purpose. There is no real need for these dams as we have enough power in Sarawak."

BMF: A number of native communities are troubled by the dam plans and with the way they are apparently being kept in the dark about the progress on the projects. What will these dams mean for the native communities?

BARU BIAN: To dam their rivers marks a real disruption of their traditional way of life. It is the destruction of their land and their history. It would eventually be the destruction of their whole source of livelihood. Their very existence and livelihood is being threatened.

BMF: Why is the Sarawak government seeking such a close partnership with China for the construction of these dams?

BARU BIAN: Perhaps one of the reasons is that the Chinese have experience of building some of the biggest dams in the world, such as the three gorges project.

BMF: Do you see a geopolitical interest on the Chinese government's side?

BARU BIAN: I have no idea about that, apart from the fact that the Chinese contractors and the people who are involved in this locally may have some connection with the Chinese government. I have no proof of political motives.

BMF: Will the dams be funded with loans from China?

BARU BIAN: The funding for these projects is not being publicly disclosed. This is the way things are being done here.

BMF: Do you see a danger of Sarawak having a long-term state debt to China with the realization of such economically questionable mega-projects?

BARU BIAN: If the dams are funded with Chinese loans, we will have obligations for quite some time paying these loans back to the Chinese government. In the meantime, the people involved in these projects will already have been paid with the commission for the dam.

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BMF: After much criticism, let us turn to the future. If the opposition wins the next state election, what is your alternative development model for the state of Sarawak?

BARU BIAN: If our opposition coalition, Pakatan Rakyat, were to win and beat the government, we pledge to correct all these things that are not right. Top of the agenda comes the transformation of the land policies – not only the native land rights but also land questions affecting all the people of Sarawak, because the Chinese population is also affected by the renewal of leases. There are Chinese non-natives who need land too. Land is a necessity for people to survive.

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BMF: What role will the native communities play in this development?

BARU BIAN: Opening up the rural sector for development is the next step. The main idea is to empower the rural population, with its vast tract of land, which constitutes our assets. We want to empower the rural population to engage in true development, based on agriculture. For this to happen, we would open up the way to rural development by building roads. Amenities must be

provided. To achieve this for the people, we are prepared to fight for the oil and gas royalties. With that money alone, we could do plenty of things for Sarawak.

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BMF: Justice party leader Anwar Ibrahim has displayed his willingness to renegotiate Sarawak's share of the oil revenues. Will you remind him of this promise if he comes to power in the next general elections?

BARU BIAN: Yes, we will most certainly remind our Pakatan leaders of their undertaking and the promise made to Sabah and Sarawak to channel a minimum of 20 percent of the oil and gas royalties to Sarawak, which the present federal government is refusing to give.

BMF: How will a new government deal with the complex issue of native customary rights?

BARU BIAN: We propose that a land commission be set up, headed by a native with knowledge of the *adat*, the native rights system, which will investigate and confirm rights and then issue titles. We will use the Philippines' model for resolving the native land issue

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BMF: The Malaysian indigenous peoples' coalition, JOAS, has called for a moratorium on new plantations in Malaysia. How will you deal with the valid plantation and logging licences issued for the native communities' customary lands?

BARU BIAN: This is very simple. I will look at the terms and conditions of the licences and leases. I believe that all the licences and leases have clear provisions expressly stating that they are issued subject to native customary rights: notwithstanding that, land may be categorized as state land and native customary rights may still exist. The problem is really that the government, the licensees and the leaseholders are not willing, or courageous enough, to implement this provision. It's contained in the terms of the licence already. So there are ways and means of dealing with this. In fact, the land commission, like in the Philippines, would be in a position to do that. They would not nullify the licences and leases immediately.

BMF: What are your infrastructure development plans for the rural areas?

BARU BIAN: The main thing for me is the roads, the communication aspect of development. If you look at Sarawak, most of the rural areas are only accessible by air, river or jungle trekking. So creating road access is the most important issue. Secondly, the needs of the people must be placed in the foreground. For example, gravity water systems and flush toilets must be introduced in the villages. Power must come in as well. Many villages are still using generators, which is too

expensive because they are run by diesel. In place of that, I am thinking in terms of hydropower, small mini-hydropower plants close to the villages, which are very cost effective and reliable. These are the main things that can empower the rural people to change their whole living environment. And, from there, new farming techniques can be introduced.

"We must place the peoples' needs in the foreground, improve the road network and move over to a decentralized rural power supply based on mini-hydropower plants which are very cost effective and reliable."

BMF: Does this mean you are championing decentralized development and are recommending a move away from mega projects in favour of being close to community needs?

BARU BIAN: Yes, for that to work, the roads must be in place. From there, the road continues on to education. Improving the education system and creating access to education and knowledge in the rural areas is extremely important. School libraries and internet access etc. must be made available to all rural people. I tend to think that Taib Mahmud's government deliberately left out our people so as to keep the natives dependent and to weaken us economically and politically. This then ensured that we stayed on the receiving side without having independence.

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BMF: How will you deal with the growing call of the international community for the conservation of Sarawak's tropical rainforests?

BARU BIAN: I am strongly in favour of that, and it is still possible. I think, if a government is free from corruption and focuses on the needs of the people and the need to protect the environment, a government must have a policy and a stand on this issue. This is a global concern, and we must take it on. I look forward to proper management of the forests, and we must achieve clean rivers and sustainably managed forests again. This is what I experienced in my childhood in the interior. I have seen this transformation in South Korea and Japan, and it has been done there successfully. Because the government has taken a firm stance on forest and timber policies.

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BMF: After over twenty years, the Penan communities in the Baram are still struggling for their rights and against logging. What does the Penan struggle mean to you?

BARU BIAN: We should really look at the Penan's claims and grievances and resolve them respectfully. From the legal angle, on the basis of the principle of common law, they do clearly have rights over the land, and I want to agree with them. The Penan's land claims are only a problem if you look at them from a company perspective, because the companies think in terms of profits and business, and perhaps the government had the misconceived idea that the Penan have no rights.

BMF: Do you see a chance of reconciling the Penan's land claims with a sustainable management of the natural resources?

BARU BIAN: I think that, if we can avoid greed, this is not a big issue because that is in line with the conservation of the environment and the land, which is good for everyone. We can log the forests and have a timber industry but we must do so with all these issues in mind. Other countries have successfully managed these industries, so we can do it too.

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BMF: What is your personal message to the Penan?

BARU BIAN: My personal message to the Penan is: hang on there, stand up for your rights and fight for them. Of course, this is my message not only to the Penan but to all natives. The fastest and easiest way of achieving a result is through political transformation. This current government must be changed. Give us, the opposition, the opportunity to be the state government for one term, and I can assure you that the entire policies currently in place will be changed. All these problems they are facing are linked to the present policies of the government.

BMF: Baru Bian, thank you very much for this interview.



Baru Bian

Renowned Sarawak lawyer Baru Bian (51) has recently been appointed Sarawak chairman of the People's Justice party, PKR. His law office in Kuching, the state capital, is representing well over 100 land rights cases filed by native communities against the Sarawak State Government.

Baru, who is a member of the native Lun Bawang community, grew up as the son of a pastor in Sarawak's interior. He studied law at the Mara Institute of Technology in West Malaysia and completed his studies in Melbourne, Australia. Baru is a father of three children and lives with his family in Kuching.